

**AMENDMENTS TO THE CLAIMS:**

The following listing of claims replaces all prior listings, and all prior versions, of claims in the application.

**LISTING OF CLAIMS:**

1 – 12. (Cancelled).

13. (Currently Amended) A non-aqueous secondary battery comprising:  
a positive electrode,  
a negative electrode, active material of said negative electrode being graphite,  
and  
electrolytic solution, wherein  
the graphite active material of said negative electrode comprises graphite  
powder having substantially completely a crystal structure, and wherein a  
rhombohedral fraction, of the crystal structure of the graphite powder, is in a range of  
0-20 % by weight, a-particle size of all of the graphite powder is equal to or smaller  
than 100  $\mu\text{m}$ , and raw material of the graphite of the negative electrode is natural  
graphite.

14. (Currently Amended) A non-aqueous secondary battery comprising:  
a positive electrode,  
a negative electrode, active material of said negative electrode being graphite,  
and  
electrolytic solution, wherein  
the graphite active material of said negative electrode comprises graphite  
powder having substantially completely a crystal structure, and wherein a hexagonal

fraction, of the crystal structure of the graphite powder, is in a range of at least 80% by weight, ~~a~~-particle size of all of the graphite powder is equal to or smaller than 100  $\mu\text{m}$ , and raw material of the graphite of the negative electrode is natural graphite.

15 – 19. (Cancelled).

20. (Currently Amended) A non-aqueous secondary battery comprising:  
a positive electrode,  
a negative electrode, active material of said negative electrode being graphite,  
and  
electrolytic solution, which is charged or discharged by repeating a reaction of intercalating and deintercalating ions at said positive electrode and said negative electrode, respectively, wherein

the graphite active material of said negative electrode comprises graphite powder having substantially completely a crystal structure, wherein a fraction of a rhombohedral crystal structure of the crystal structure of the graphite powder is equal to or less than 20% by weight, ~~a~~-particle size of all of the graphite powder is equal to or smaller than 100  $\mu\text{m}$ , and raw material of the graphite of the negative electrode is natural graphite.

21. (Previously Presented) A non-aqueous secondary battery as claimed in claim 20, wherein

said graphite powder has a fraction of a hexagonal crystal structure of the crystal structure of the graphite powder which is equal to or more than 80% by weight.

22 – 23. (Cancelled).

24. (Withdrawn) A non-aqueous secondary battery comprising:  
a positive electrode,  
a negative electrode, active material of said negative electrode being graphite,  
and  
electrolytic solution, which is charged or discharged by repeating a reaction of  
intercalating and deintercalating ions at said positive electrode and said negative  
electrode, respectively, wherein  
the graphite active material of said negative electrode comprises graphite  
powder having a particle size equal to or smaller than 100  $\mu\text{m}$ ,  
the amount of Si in the graphite powder is equal to or less than 10 ppm,  
said graphite powder has substantially completely a crystal structure which  
includes both a hexagonal crystal structure and a rhombohedral crystal structure,  
and  
the crystal structure of said graphite powder has a fraction of the  
rhombohedral crystal structure equal to or less than 20% by weight, and a fraction of  
the hexagonal crystal structure equal to or more than 80% by weight, and the  
graphite powder has a deintercalating capacity for lithium of at least 320 mAh/g.

25 – 31. (Cancelled).

32. (Currently Amended) A non-aqueous secondary battery as claimed in claim 13, wherein the crystal structure of said graphite powder includes at least a ~~fraction~~ 80% by weight having hexagonal crystal structure.

33 – 38. (Cancelled).